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WEEKLY COLUMN

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Notes from the Georgia State Senate

2007 Budget, sexual predators and eminent domain dominate final days of legislative session

By Senator Bill Heath



The final days of the legislative session are upon us, and it looks like the gavel will pound for the last time, signaling the end of the 2006 General Assembly sometime this week.

As usual, the last days are hectic, and this year is no different. In the past week we have voted on more than 100 pieces of legislation that will affect families and businesses across Georgia. Some passed, while others will never see the light of day – until maybe the next legislative session.

Last week, the Senate passed its recommendations for the 2007 state budget which goes into effect in July. I think you will find that we are spending your money wisely and judiciously. There is money in this budget for school construction, pay raises for those who protect us and those who teach our children, for libraries and for the disabled. We have put money in the 2007 budget for prison expansion, Georgia's Pre-K program and for class size reduction. We found funds to assist school systems with rising fuel costs, so that we can continue to transport your children to and from school.

Preparing the budget is a long and arduous process, and the needs are great, but I believe we have accomplished our goals to serve all Georgians as we strive to make this the best state to live, work and raise our families.

This year, the General Assembly has had a compelling interest in protecting the public from sexual offenders. On Friday we passed the toughest and most restrictive sexual predator legislation in the nation. The version before us contained many changes that the Senate Judiciary Committee made to the measure as we sought balance and fairness. Our goal is to punish those who abuse our precious children, attack our wives, daughters and loved ones and prevent them from ever harming another person again. The bill increases penalties for certain sexual crimes to a minimum of 25 years imprisonment and in some cases, a maximum of life imprisonment. The bill also creates a new crime of aiding, abetting or harboring a sex offender. It also creates a new sentencing scheme for other enumerated sex crimes, as well as eliminating first offender treatment for sex crimes. Residency, workplace and loitering restrictions will be placed on sexual offenders. A 1,000 foot limit would apply to child care facilities, churches, schools, designated bus stops or any other area where minors congregate. The bill also includes several *Romeo and Juliet Clauses*, which would make some crimes misdemeanor offenses if the victim is between the ages of 13 and 16 and the defendant is no more than four years older and under 18 years old. This is an attempt to protect youthful, immature decision making from being prosecuted as felony sexual offenses. The bill passed by a vote 53 to 1.

Another issue that arose last year was when a U.S. Supreme Court decision in June ([Kelo v. City of New London, CT](#)) struck hard at the heart of private property ownership rights. In America, our U.S. Constitution has held these rights in such high regard that the 5th and 14th Amendments mention private property rights in the same context as life and liberty. In its opinion, the Court sided with the city government. In essence, this ruling has handed over broad powers to local governments, allowing the seizure of private property to create higher end uses that could result in higher tax revenues, additional economic opportunities, or secondary public use benefits. No longer is “public use,” as found in the U.S. Constitution the standard for which eminent domain can be used. The Court has redefined the term to be “public purpose.” Economic development now rises to that level, in the Court’s opinion. This left it up to the General Assembly to protect private property rights in Georgia.

The Senate took up HB 1313 on Friday. This bill will provide for a comprehensive revision of Georgia’s eminent domain laws. The bill would require more notice to be provided to property owners that their property is subject to taking and public hearings must be held before proceeding with any taking under the power of eminent domain. The definitions of “blight” and “public use” have been strengthened so that local governments must meet a higher standard before taking a property they considered blighted or for what they determine to be for public use. Property owners also will be able

to petition to reacquire the property if after five years the property has not been used for a stated public use. By a vote of 53 to 0, the senate voted to strengthen Georgia's eminent domain laws.

To enact this protection, a constitutional amendment is required. We authorized this amendment by passing the enabling legislation, HR 1306. When you go to the polls in November, you will see the question asked to amend the constitution to prohibit the abuse of power of eminent domain. A "Yes" vote to this ballot question will forever protect private property rights in Georgia.

Please feel free to call me with your opinions or suggestions. Until next week...

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